

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HWSS 15-01 The Department of Highway Safety and Motor Vehicles

SPONSOR(S): Highway & Waterway Safety Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Highway & Waterway Safety Subcommittee		Whittaker	Smith

SUMMARY ANALYSIS

The bill makes various changes to current law related to The Department of Highway Safety and Motor Vehicles (DHSMV). In summary, the bill:

- Authorizes the employing agency to pay up to \$5,000 directly to a venue to cover funeral and burial expenses of a law enforcement officer killed in the line of duty.
- Requires an 18 inch square, red flag on all loads that extend four feet or more beyond a vehicles rear.
- Increases the fine from \$100 to \$500 for a violation of unlawfully displaying vehicles for sale, hire, or rental.
- Directs DHSMV to include language permitting a voluntary contribution of \$1 or more on a motor vehicle registration and driver license application listed as "End Breast Cancer." Such contributions will be distributed by the department to the Florida Breast Cancer Foundation.
- Removes requirements for establishing a specialty license plate that were declared unconstitutional in 2011 by the U.S. Middle District Court in Orlando.
- Removes provisions for the issuance of the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate which are no longer in circulation.
- Provides for Major League Soccer to be included as part of Florida's professional sports team for specialty license plate purposes.
- Revises the identification of a motor vehicles ancient and antique status to model year instead of manufactured year and discontinues verification of the age of the engine.
- Expands existing public record exemption for personal injury protection and property damage liability insurance policies to allow the Department of Highway Safety and Motor Vehicles to provide personal injury protection and property damage liability insurance policy numbers to department approved third parties that provide data collection services to an insurer of any person involved in such accident.

The bill has a negative, but insignificant, impact on state funds.

The bill has an effective date of October 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Funeral Expense Flexibility for Law Enforcement Officers (Section 1)

Present Situation

Beneficiaries of full-time law enforcement, correctional, or probation officers employed by the state that are killed in the line of duty are eligible to receive \$1,000 to assist with funeral and burial expenses. This is in addition to other benefits entitled to beneficiaries and dependents under the Workers' Compensation Law or other state or federal statutes.¹

Proposed Change

The bill amends s. 112.19(2)(f), F.S., authorizing the employing agency to pay up to \$5,000 directly to a venue to cover funeral and burial expenses of an officer killed in the line of duty. This authorization is in addition to the \$1,000 provided in statute.

Hazard Flags on Projecting Loads (Section 2)

Present Situation

Florida law requires red flags not less than 12 inches square be attached to a load projecting past the perimeter of a vehicle to alert surrounding drivers of the hazard.

Federal regulations require the flag to be 18 inches square. Commercial motor vehicle carriers that obtain dimension/size permits issued by the Florida Department of Transportation are required by the terms of the permit to obtain 18 inch flags.

Proposed Change

The bill amends s. 316.228(1), F.S., revising requirements from a 12 inch square flag to an 18 inch square flag on all loads that extend four feet or more beyond a vehicles perimeter.

Unlawful Display of Vehicle for Sale, Hire, or Rental (Section 3)

Present Situation

In 2010, Florida Statute 318.18(21) was passed into law imposing a \$100 fine for the unlawful display of vehicles for sale, hire or rental.

The Department of Highway Safety and Motor Vehicles investigated close to 2,000 unlicensed dealer cases through the third quarter of fiscal year 2013-2014.²

Proposed Change

The bill amends s. 318.18(21), F.S., increasing the fine from \$100 to \$500 for a violation of unlawfully displaying vehicles for sale, hire, or rental.

Establishing a Voluntary Contribution (Sections 4 and 9)

¹ s. 112.19(2)(f), F.S.

² Letter from the Florida Independent Automobile Dealers Association on file with the Highway and Waterway Safety Subcommittee
STORAGE NAME: pcb01.HWSS
DATE: 3/2/2015

Present Situation

Florida Statutes 320.023 and 322.081 provides requirements that must be met by an organization seeking authorization to establish a voluntary contribution on either a motor vehicle registration or driver license application or renewal. The organization must submit all of the following to DHSMV:

- A request for the particular voluntary contribution being sought, describing the proposed voluntary contribution in general terms.
- An application fee, not to exceed \$10,000 to defray the DHSMV's cost for reviewing the application and developing the voluntary contribution checkoff, if authorized. State funds may not be used to pay the application fee.
- A marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

The information must be submitted to DHSMV at least 90 days before the convening of the next regular session of the Legislature.

Currently, there are 26 different voluntary contribution options on a motor vehicle registration application and 19 different voluntary contribution options on a driver license and identification card application.³

The department is authorized to discontinue the voluntary contribution if less than \$25,000 has been contributed by the end of the 5th year or less than \$25,000 is contributed during any subsequent 5-year period.

Proposed Change

The Florida Breast Cancer Foundation organization has met all of the requirements to pursue legislation to establish a voluntary contribution on both a vehicle registration and driver license application and renewal.⁴

The bill amends s. 320.02 and s. 322.08, F.S., directing DHSMV to include language permitting a voluntary contribution of \$1 or more on a motor vehicle registration and driver license application listed as "End Breast Cancer." Such contributions will be distributed by the department to the Florida Breast Cancer Foundation.

Specialty Plate Requirement Clean-up (Section 5)

Background

In 2011, the U.S. Middle District Court in Orlando declared the specialty plate application process as it existed in 2009 to be unconstitutional. That process included an application process, an application fee, and a marketing strategy outlining short and long term marketing plans for the specialty plate.

The pre-sale methodology, created in 2010, replaced the application process. However, the application process, application fee, and marketing strategy language still exists in statute.

The recognized process to establish a specialty plate requires the plate to first be approved by law. After a new specialty plate becomes law the following requirements must be met:

- Within 60 days, the organization must submit an art design, in a medium prescribed by DHSMV.
- Within 120 days, DHSMV must establish a method to issue a specialty license plate voucher to allow for the pre-sale of the specialty plate.
- Within 24 months after the voucher is established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin. If this requirement is not met, the plate is deauthorized and DHSMV must discontinue development of the plate and issuance of the vouchers.

³ Email from DHSMV on file with Highway and Waterway Safety Subcommittee

⁴ Letter from DHSMV on file with the Highway and Waterway Safety Subcommittee

Proposed Changes

The bill amends s. 320.08053, F.S., removing requirements for establishing a specialty license plate that were declared unconstitutional in 2011 by the U.S. Middle District Court in Orlando.

Specialty Plates (Sections 6 and 7)

Present Situation

Three specialty plates referenced in s. 320.08056 and s. 320.08058, F.S., are no longer in circulation. They are the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate.

The department is authorized to develop specialty license plates for Florida professional sports teams domiciled in this state that comply with the specialty license plates requirements. The professional sports include Major League Baseball, National Basketball Association, National Football League, Arena Football Teams, and National Hockey League. Reference to Major League Soccer is not provided. Florida has one Major League Soccer team, the Orlando City Soccer Club.

Proposed Change

The bill amends s. 320.08056 and s. 320.08058, F.S., removing provisions for the distribution of funds for the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate.

The bill also amends s. 320.08058(9)(a), F.S., to include Major League Soccer as part of Florida's professional sports teams.

Technical changes are made for the reference and renumbering of sections.

Ancient or Antique Motor Vehicles (Section 8)

Present Situation

Ancient motor vehicle is identified in s. 320.086(1), F.S., as a motor vehicle for private use manufactured in 1945 or earlier, equipped with an engine manufactured in 1945 or earlier or manufactured to the specifications of the original engine.

Antique motor vehicle is identified in s. 320.086(2)(a), F.S., as a motor vehicle for private use manufactured after 1945 and of the age of 30 years or more after the manufacture, equipped with an engine of the age of 30 years or more after the date of manufacture.

Section 320.08, F.S., allows owners of motor vehicles, mopeds, and motorcycles to pay a reduced registration annual license tax when the vehicle is considered ancient or antique.

Advisory Memorandum 201314-44, issued by DHSMV's Inspector General noted that motor vehicle antique status was determined using the model date of the vehicle contrary to Florida Statute. This is due to the manufacture date not being captured in motor vehicle records, but instead the model year as indicated in the Vehicle Identification Number.

Proposed Change

The bill amends s. 320.086(1) and 320.086(2)(a), F.S., revising the identification of a motor vehicles ancient and antique status to model year instead of manufactured year and discontinuing verification of the age of the engine.

Public Record Exemption Expansion – Insurance Policy (Section 10)

Present Situation

Under section 324.242, F.S., the department is authorized to release the personal injury protection and property damage liability policy number for a vehicle involved in an accident to any person involved in the accident, the attorney of any person involved in the accident, or a representative of the insurer of any person in the accident. Such information can only be released upon written request.

Proposed Change

The bill amends s. 324.242, F.S., expanding authorization of the department to provide personal injury protection and property damage liability insurance policy numbers to department approved third parties that provide data collection services to an insurer of any person involved in such accident.

The bill clarifies that prior to the department's release of a policy number, an insurer's representative, contracted third party or an attorney for a person involved in an accident must provide the department documentation confirming proof of representation.

The bill further allows for information made exempt to be disclosed to another governmental entity without a written request or copy of the crash report if disclosure is necessary for the receiving government entity to perform its duties and responsibilities.

"Governmental entity" is defined as any federal, state, county, district, authority, or municipal officer, department, division, board, bureau, or commission created or established by law.

Conforming Amendments (Sections 11 and 12)

Reenacts ss. 319.23(3)(c), 320.08(2)(a) and 320.08(3)(e), F.S., relating to motor vehicle certificates of title and motor vehicle license taxes, respectively, to incorporate the amendments made by the bill to s. 320.086, F.S., in reference to ancient and antique motor vehicles.

Effective Date (Section 13)

The bill has an effective date of October 1, 2015.

B. SECTION DIRECTORY:

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| Section 1 | Amends s. 112.19(2)(f), F.S., authorizing the employing agency to pay up to \$5,000 directly to a venue to cover funeral and burial expenses of a law enforcement officer killed in the line of duty. |
| Section 2 | Amends s. 316.228(1), F.S., revising requirements from a 12 inch square flag to an 18 inch square flag on all loads that extend four feet or more beyond a vehicles perimeter. |
| Section 3 | Amends s. 318.18(21), F.S., increasing the fine from \$100 to \$500 for a violation of unlawfully displaying vehicles for sale, hire, or rental. |
| Section 4 | Amends s. 320.02, F.S., requiring the motor vehicle registration form and registration renewal form to include an option to make a voluntary contribution to the Florida Breast Cancer Foundation. |
| Section 5 | Amends s. 320.08053, F.S., removing requirements for establishing a specialty license plate that were declared unconstitutional in 2011 by the U.S. Middle District Court in Orlando. |
| Section 6 | Amends s. 320.08056 removing provisions for the issuance of the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate which are no longer in circulation. |

- Section 7 Amends s. 320.08058, F.S., removing provisions for distribution of funds for the Corrections Foundation license plate, the Children First license plate, and the Veterans of Foreign Wars license plate; amends s. 320.08058(9)(a), F.S., to include Major League Soccer as part of Florida's professional sports teams; makes technical changes for the reference and renumbering of sections.
- Section 8 Amends s. 320.086(1) and 320.086(2)(a), F.S., revising the identification of a motor vehicles ancient and antique status to model year instead of manufactured year and discontinuing verification of the age of the engine.
- Section 9 Amends s. 322.08, F.S., requiring the driver license application form to include an option to make a voluntary contribution to the Florida Breast Cancer Foundation; providing that contributions received are not income of a revenue nature.
- Section 10 Amends s. 324.242, F.S., expanding authorization of the Department of Highway Safety and Motor Vehicles to provide personal injury protection and property damage liability insurance policy numbers to department-approved third parties under certain circumstances; providing requirements to obtain specified insurance policy information; authorizing the disclosure of certain exempted information to governmental entities under certain circumstances; providing a definition.
- Section 11 Reenacts ss. 319.23(3)(c), F.S., to conform with amendments made to s. 320.086, F.S. by the bill.
- Section 12 Reenacts ss. 320.08(2)(a) and 320.08(3)(e), F.S., to conform with amendments made to s. 320.086, F.S. by the bill.
- Section 13 Provides an effective date of October 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The bill has a negative, but insignificant impact on state funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expand funds or to take action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES